

II. Remarks

Claims 1-11 were pending in this application and were rejected. The present amendment amends Claims 1-11 to correct minor errors and to more particularly point out and clarify Applicants' invention.

Reconsideration of the Application in view of the above amendments and the following remarks is respectfully requested.

Rejections Under 35 U.S.C. § 103

Claims 1-4 and 6-11 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Publication No. 2002/0149179, issued to Holtz ("Holtz") in view of U.S. Patent No. 6,250,669 issued to Ohmiya ("Ohmiya"). In view of the amendments and remarks contained herein, Applicants respectfully submit that the rejections of Claims 1-4 and 6-11 are traversed.

Applicants have amended Claim 1 to recite that the housing comprises a main housing structure and a housing cover that is connected with the main housing structure to define a hollow space for accommodation of the gas generator and the airbag. The housing cover is configured to have an outer side that faces the vehicle occupants when installed in the motor vehicle. The housing cover has an inner side opposite the outer side. The inner side has at least one side edge material weakness formed therein which is torn open upon deployment of the airbag to define an edge of the housing cover. The inner side of the housing cover has a hinge material weakness formed therein defining a hinge that folds to form a cover flap upon deployment of the airbag to open the housing cover. The cover flap having a portion of the housing cover that

includes the edge. The side edge material weakness and the hinge material weakness are invisible as viewed along the outer side of the housing cover by the vehicle occupants. The housing cover is connected with the main housing structure by a perforated section that tears open upon deployment of the airbag allowing the hinge to fold. Support for these amendments may be found in Applicants application at paragraphs [0030] – [0037] and Figures 2-4.

Holtz discloses an airbag cover 26 including a panel member 27 which is connected to and conforms to the contour of a dash board 12. The outer side of the panel member 27 is exposed to vehicle occupants (see Figure 1) when installed in the vehicle. Opposite the outer side of the panel member 27 is the inner side of the panel member 27. A breakaway hinge leg 28 and a retaining hinge leg 44 extend from the inner side of the panel member 27 in a substantially perpendicular direction. *Holtz* at paragraphs [0031]-[0032] and Figure 1-2. As such, the hinge legs 28 and 44 are not opposite the outer side of the cover member 27 and accordingly, do not correspond to Applicants' inner side of the cover as recited in the present claims.

The hinge legs 28 and 44 retain the airbag cover 26 securely to the dash board 12 until an accident. The breakaway hinge leg 28 includes a tear seam 38 which is transverse to the length of the breakaway hinge leg 28. During inflation of the airbag 20, the airbag 20 strikes the breakaway hinge leg 28 with sufficient force to break the breakaway hinge leg 28 at the tear seam 38. *Id.* at paragraphs [0033]-[0035]. Notably, the tear seam 38 is not formed in a side (i.e. inner side) of the cover member 27 opposite its outer side and accordingly, is not Applicants' claimed side edge material weakness as suggested by the Examiner.

The retaining hinge leg 44 is configured with clip holes 60 and includes clip springs 62 which extend into corresponding clip holes 60. Each clip hole 60 receives a protruding member 54 of the dash board 12. When the airbag 20 is deployed, the clip springs 62 allow for some pivotal movement of the retaining hinge leg 44 relative to the protruding member 54. Notably, the retaining hinge leg 44 pivots relative to the protruding member 54 and does not fold the cover member 27 to form a cover flap. As such, the clip holes 60, clip springs 62 and retaining hinge leg 44 do not correspond to Applicants' claimed hinge material weakness formed on an inner side of the housing cover.

The retaining hinge leg 44 further includes energy management apertures 64 which serve to control and re-direct the energy from the connection of the retaining hinge leg and the panel member 27. The energy is generated by the inflator system 16 in deploying the airbag 20. The energy management apertures 64 receive energy from the impact and control the energy, resulting in the material of the retaining hinge leg 44 stretching in various directions. The energy tends to cancel out so that the retainer hinge leg 44 does not tear. *Id.* at paragraphs [0041]-[0042]. Notably, Holtz fails to disclose that the apertures 64 tear open and in fact, teaches away from tearing open the apertures 64. Moreover and as admitted by the Examiner, Holtz fails to disclose that the apertures tear open to define an edge of the cover member 27.

Ohmiya discloses instrument panel 10 with an airbag door assembly including an airbag door portion 10A made of skin 30, foam 34 and a door insert 32. *Ohmiya* at col. 4, lines 39-50. A mounting flange 39 protrudes from the inner side of the door insert 32 for attaching an airbag unit 12. *Id.* at col. 4, lines 59-67. A protruding portion 48 extends beyond the mounting flange 39 from the

outer portion of the door insert 32 towards the instrument panel insert 18 defining an edge of the door insert 32. *Id.* at col. 6, lines 14-17 and Figures 1-2. A notch provides the mounting flange 39 with a thin wall portion 51 that breaks during airbag deployment. *Id.* at col. 6, lines 44-47. A rib 32 protrudes from the upper surface of the door insert 32. The rib 62 extends near and along the breakable portion 54 of the skin 30 which locally reduces the foam layer 34 thickness. Upon deployment of the airbag, the breakable portion 54 of the skin 30 breaks forming an airbag door edge consisting of the breakable portion 54, the reduced foam layer 34 and the protruded portion 48 of the door insert 32. Notably, the edge of the door assembly is not defined by the broken thin wall portion 51 and accordingly, does not correspond to Applicants' claimed side edge material weakness as suggested by the Examiner.

Neither Holtz nor Ohmiya independently or in combination, disclose, teach or suggest the present invention as recited in Claim 1. More specifically, neither Holtz nor Ohmiya disclose, teach or suggest a housing comprising a housing cover (1) having an inner side that has at least one side edge material weakness formed therein, (2) a hinge material weakness formed in the inner side of the housing cover defining a hinge that folds to form a cover flap, and (3) a perforated section that tears open upon deployment of the airbag allowing the hinge to fold. In that both Holtz and Ohmiya lack the noted elements of Claim 1, the rejection based thereon should be withdrawn. Accordingly, Applicants believe that Claim 1 and its dependent Claim 2- 4 and 6 – 11 are in a condition for allowance.

Claim 5 was rejected under 35 U.S.C. §103(a) as being unpatentable over Holtz and Ohmiya and further in view of U.S. Patent No. 5,961,143 issued

to Hlywka et al. ("Hlywka"). Applicants respectfully submit that the rejection of Claim 5 is traversed.

Since Claim 5 depends on Claim 1 and since Hlywka fails to disclose a housing comprising a housing cover (1) having an inner side that has at least one side edge material weakness formed therein, (2) a hinge material weakness formed in the inner side of the housing cover defining a hinge that folds to form a cover flap, and (3) a perforated section that tears open upon deployment of the airbag allowing the hinge to fold, the combination of Holtz, Ohmiya and Hlywka cannot render the claim of the present invention as obvious. The rejection under section 103(a) is therefore improper and should be withdrawn.

Conclusion

In view of the above amendments and remarks, it is respectfully submitted that the present form of the claims are patentably distinguishable over the art of record and that this application is now in condition for allowance. Such action is requested.

Respectfully submitted,

January 16, 2009
Date

/Daniel P. Dailey/
Daniel P. Dailey (Reg. No.54,054)

SUPPLEMENTAL RESPONSE: Without waiving its objections served on March 7, 2025, please see CARVER 000829-847 - 1-24-24 Pier damage.

THIRD SUPPLEMENTAL RESPONSE: See CARVER 000983-1000 - 3/9/21 Incident Report; CARVER 001002-1019 - 5/20/21 Incident Report; CARVER 001033-1050 - 8/6/21 Incident Report; CARVER 0001053-1071 - 9/27/21 Incident Report; CARVER 000945-962 - 10/13/22 Incident Report; and CARVER 000964-981 - 11/17/20 Incident Report. Additional documents responsive to this Request may be produced in the course of Carver Marine's rolling productions if any are discovered in Carver Marine's possession, custody, or control following a reasonably diligent search.

FOURTH SUPPLEMENTAL RESPONSE: Without waiving its objections served on March 7, 2025, please see:

CARVER TBS HELM CONNECT 000171-181 9.5 Incident Report 1.21.24
CARVER TBS HELM CONNECT 000182-192 9.5 Incident Report 10.12.22
CARVER TBS HELM CONNECT 000193-203 9.5 Incident Report 11.17.20
CARVER TBS HELM CONNECT 000204-214 9.5 Incident Report 3.9.21
CARVER TBS HELM CONNECT 000215-225 9.5 Incident Report 5.20.21
CARVER TBS HELM CONNECT 000226-239 9.5 Incident Report 8.24.23
CARVER TBS HELM CONNECT 000240-250 9.5 Incident Report 8.6.21
CARVER TBS HELM CONNECT 000251-261 Incident Report 9.27.21

FIFTH SUPPLEMENTAL RESPONSE TO REQUEST NO. 6:

Carver withdraws its objection to Request no. 6 per the Court's Order of 4/24/25 [Doc. 50]. See Carver's First Supplemental Answer to the Belt Line's Interrogatories No. 19. Carver's First Carver is not in possession of any additional documents responsive to Request no. 6. The production is complete.

7. Produce all **documents** relating to prior accidents and/or marine casualties involving James Morrissey within the past 10 years.

RESPONSE: See Carver's written objection to Request No. 7 served on March 7, 2025.

SUPPLEMENTAL RESPONSE: Without waiving its objections served on March 7, 2025, please see CARVER 000829-847 - 1-24-24 Pier damage.

FOURTH SUPPLEMENTAL RESPONSE: Without waiving its objections served on March 7, 2025, please see:

CARVER TBS HELM CONNECT 000171-181 9.5 Incident Report 1.21.24
CARVER TBS HELM CONNECT 000182-192 9.5 Incident Report 10.12.22
CARVER TBS HELM CONNECT 000193-203 9.5 Incident Report 11.17.20
CARVER TBS HELM CONNECT 000204-214 9.5 Incident Report 3.9.21
CARVER TBS HELM CONNECT 000215-225 9.5 Incident Report 5.20.21
CARVER TBS HELM CONNECT 000226-239 9.5 Incident Report 8.24.23

**CARVER TBS HELM CONNECT 000240-250 9.5 Incident Report 8.6.21
CARVER TBS HELM CONNECT 000251-261 Incident Report 9.27.21**

FIFTH SUPPLEMENTAL RESPONSE TO REQUEST NO. 7:

Carver withdraws its objection to Request no. 7 per the Court's Order of 4/24/25 [Doc. 50]. Carver is not in possession of any additional documents responsive to Request no. 7. The production is complete.

8. Produce all **documents** relating to or evidencing the repairs and/or work done on the **Vessel** for the period of June 12, 2024 through June 14, 2024, including, but not limited to, documents identifying who performed the work and a description of the work done.

RESPONSE: Subject to and without waiving its written objections served on March 7, 2025, see CARVER 000249 Mackenzie Rose_6-15-2024 - AYERS1 Vendor Tech report 3533, CARVER 000250 - Mackenzie Rose_6-15-2024 - Vendor Tech report 35706, CARVER 000251 -1 1-20-2023 GMT Report Auto Pilot, and CARVER 000252 - 3-2-2024 GMT Report Auto Pilot previously produced. Carver will endeavor to locate and produce additional documents responsive to Request No. 8 for the past five years or until the last Vessel overhaul to the extent they exist.

FOURTH SUPPLEMENTAL RESPONSE: Without waiving its objections served on March 7, 2025, please see:

**CARVER TBS HELM CONNECT 000262-265 Tasks – 2020
CARVER TBS HELM CONNECT 000263-268 Tasks – 2021
CARVER TBS HELM CONNECT 000269-271 Tasks – 2022
CARVER TBS HELM CONNECT 000272-276 Tasks – 2023
CARVER TBS HELM CONNECT 000277-280 Tasks – 2024**

FIFTH SUPPLEMENTAL RESPONSE TO REQUEST NO. 8:

Carver withdraws its objection to Request no. 8 per the Court's Order of 4/24/25 [Doc. 50]. Carver is not in possession of any additional documents responsive to Request no. 8. The production is complete.

9. Produce all **documents** identifying or evidencing repairs conducted relating to the navigation, steering, or autopilot system on the **Vessel** from January 1, 2020 to present.

RESPONSE: Subject to and without waiving its written objections served on March 7, 2025, see CARVER 000033 – 36, 10.1 DAILY ENGINE ROOM LOG – MAINT PROCED REP-MACKENZIE ROSE, CARVER 000249 Mackenzie Rose_6-15-2024 - AYERS1 Vendor Tech report 3533, CARVER 000250 - Mackenzie Rose_6-15-2024 - Vendor Tech report 35706, CARVER 000251 -1 1-20-2023 GMT

Report Auto Pilot, and CARVER 000252 - 3-2-2024 GMT Report Auto Pilot previously produced. See also Carver's Response to Norfolk's First Requests for Production No. 16. Carver will endeavor to locate and produce additional documents responsive to Request No. 9 for the past five years or until the last Vessel overhaul to the extent they exist.

SUPPLEMENTAL RESPONSE: Without waiving its objections served on March 7, 2025, please see **CARVER 000821 - 11-30-2023 GMT Report 8.**

THIRD SUPPLEMENTAL RESPONSE: See **CARVER 000982 - 11/30/23 GMT Report**; **CARVER 000963 - 10/7/23 GMT Report**; **CARVER 001052 - 9/22/23 GMT Report**; **CARVER 001074 - 9/7/23 GMT Report**; **CARVER 001072 - 9/3/23 GMT Report**; **CARVER 001025 - 7/10/23 GMT Report**; **CARVER 001001 - 4/4/23 GMT Report**; and **CARVER 000944 - 1/3/24 GMT Report**. Additional documents responsive to this Request may be produced in the course of Carver Marine's rolling productions if any are discovered in Carver Marine's possession, custody, or control following a reasonably diligent search.

FOURTH SUPPLEMENTAL RESPONSE: Without waiving its objections served on March 7, 2025, please see:

CARVER TBS HELM CONNECT 000262-265 Tasks – 2020
CARVER TBS HELM CONNECT 000263-268 Tasks – 2021
CARVER TBS HELM CONNECT 000269-271 Tasks – 2022
CARVER TBS HELM CONNECT 000272-276 Tasks – 2023
CARVER TBS HELM CONNECT 000277-280 Tasks - 2024

FIFTH SUPPLEMENTAL RESPONSE TO REQUEST NO. 9:

Carver withdraws its objection to Request no. 9 per the Court's Order of 4/24/25 [Doc. 50]. Carver is not in possession of any additional documents responsive to Request no. 9. The production is complete.

10. Produce all **documents** relating to or evidencing any time within the past 10 years that the navigation, steering, or autopilot system on the **Vessel** malfunctioned.

RESPONSE: Subject to and without waiving its written objections served on March 7, 2025, see **CARVER 000033 – 36 10. 1 DAILY ENGINE ROOM LOG – MAINT PROCED REP-MACKENZIE ROSE**, **CARVER 000234 – 243 Tug Mackenzie Rose - Emergency Steering Procedure – Rough Engine Logs**, **CARVER 000251 - 1-20-2023 GMT Report Auto Pilot**, **CARVER 000252- 3-2-2023 GMT Report Auto Pilot** previously produced. Carver will endeavor to locate and produce documents responsive to Request No. 10 for five years before June 15, 2024, the date of the incident.

FOURTH SUPPLEMENTAL RESPONSE: Without waiving its objections served on March 7, 2025, please see:

CARVER TBS HELM CONNECT 000262-265 Tasks – 2020
CARVER TBS HELM CONNECT 000263-268 Tasks – 2021
CARVER TBS HELM CONNECT 000269-271 Tasks – 2022

CARVER TBS HELM CONNECT 000272-276 Tasks – 2023
CARVER TBS HELM CONNECT 000277-280 Tasks – 2024

FIFTH SUPPLEMENTAL RESPONSE TO REQUEST NO. 10:

Carver withdraws its objection to Request no. 10 per the Court's Order of 4/24/25 [Doc. 50]. Carver is not in possession of any additional documents responsive to Request no. 10. The production is complete.

11. Produce all **documents** identifying or evidencing training conducted relating to the navigation, steering, or autopilot system on the **Vessel** from January 1, 2020 to present, including who performed it and who received it.

RESPONSE: See Carver's written objection to Request No. 11 served on March 7, 2025.

SUPPLEMENTAL RESPONSE: Without waiving its objections served on March 7, 2025, please see **CARVER 000848-850 6-2a New Crew Orientation Checklist - All Employees** and **CARVER 000822-828 - 6-2b New Crew Orientation Checklist - All Employees – Vessel**

FIFTH SUPPLEMENTAL RESPONSE TO REQUEST NO. 11:

Carver withdraws its objection to Request no. 11 per the Court's Order of 4/24/25 [Doc. 50]. See **CARVER TBS HELM CONNECT 00732-1078 (Coeymans SMS)**, produced herewith. See also **CARVER TBS HELM CONNECT 001079-001618** produced herewith. Carver is not in possession of any additional documents responsive to Request no. 11. The production is complete.

12. Produce all **documents** evidencing company rules or protocols in effect from January 1, 2020 to present relating to the use of lookouts on the **Vessel**.

RESPONSE: Subject to and without waiving its written objections served on March 7, 2025, see **CARVER 000155 7.16 Look Out** previously produced.

FOURTH SUPPLEMENTAL RESPONSE: Without waiving its objections served on March 7, 2025, please see: **CARVER 001728-1731 Mackenzie Rose COI 20210519 Amendment 1 (5)**

FIFTH SUPPLEMENTAL RESPONSE TO REQUEST NO. 12:

Carver withdraws its objection to Request no. 12 per the Court's Order of 4/24/25 [Doc. 50]. See **CARVER TBS HELM CONNECT 00732-1078 (Coeymans SMS)**, produced herewith. Carver is not in possession of any additional documents responsive to Request no. 12. The production is complete.

13. Produce all **documents** evidencing company rules or protocols in effect from January 1, 2020 to present that identify procedures for testing/inspecting the “Steering System,” “Navigation Equipment,” and “Propulsion Controls/Systems” as described in the Master Daily Vessel reporting forms for the **Vessel**.

RESPONSE: Subject to and without waiving its written objections served on March 7, 2025, see CARVER 000162 8.8 M STEERING FAILURE, CARVER 000194-199 Safety Management Form 7.9 K Navigation Watch Assessment, Norfolk, VA Data, Carver 000201 – 226 Safety Management Form, 7.9 K Navigation Watch Assessment, Norfolk, VA-NC/SC State Line Data - Voyage Planning Information, and CARVER 000233 Tug Mackenzie Rose - Emergency Steering Procedure previously produced.

SUPPLEMENTAL RESPONSE: Without waiving its objections served on March 7, 2025, please see CARVER 000816-820 - 7.5 Navigation

FOURTH SUPPLEMENTAL RESPONSE: Without waiving its objections served on March 7, 2025, please see generally CARVER 001351-1698 CMT Towing Safety Management System

FIFTH SUPPLEMENTAL RESPONSE TO REQUEST NO. 13:

Carver withdraws its objection to Request no. 13 per the Court’s Order of 4/24/25 [Doc. 50]. See CARVER TBS HELM CONNECT 00732-1078 (Coeymans SMS), produced herewith. Carver is not in possession of any additional documents responsive to Request no. 13. The production is complete.

14. Produce all **documents** evidencing company rules or protocols in effect from January 1, 2020 to present that identify when, how, and/or where **Your** employees must report collision or allision encountered by the Vessel.

RESPONSE: Subject to and without waiving its written objections served on March 7, 2025, see Safety Management Forms, CARVER 000163-169 9.5 Accident/Incident Reporting.

FIFTH SUPPLEMENTAL RESPONSE TO REQUEST NO. 14:

Carver withdraws its objection to Request no. 14 per the Court’s Order of 4/24/25 [Doc. 50]. See CARVER TBS HELM CONNECT 00732-1078 (Coeymans SMS), produced herewith. Carver is not in possession of any additional documents responsive to Request no. 14. The production is complete.

Dated: June 9, 2025

Respectfully submitted,

CLYDE & CO US LLP

By:/s/ James H. Rodgers

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D/B/A Carver Marine Towing

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of June 2025, I served the foregoing by electronic mail on the following:

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Railroad Company*

Harold L. Cohen

Harold L. Cohen

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division
In Admiralty**

In the Matter of COEYMAN'S MARINE
TOWING, LLC D/B/A CARVER MARINE
TOWING as Owner and Operator of M/T
Mackenzie Rose, (IMO No. 8968765) her
cargo, engines, boilers, tackle, equipment,
apparel, and appurtenances, etc., *in rem*, ("M/T
MACKENZIE ROSE"), petitioning for
Exoneration from or Limitation of Liability in
allision with Norfolk and Portsmouth Belt Line
Railroad Company Main Line Railroad Bridge
(the "Bridge") occurring June 15, 2024 in and

**Civil Action No: 2:24-cv-
00490**

Declaration of Josef Malik

I, Josef Malik declare under penalty of perjury as follows:

1. I am an attorney licensed to practice in Illinois. I am Chief Legal Counsel for Carver International, which includes petitioner Coeymans Marine Towing LLC d/b/a/ Carver Marine Towing ("Carver"), as owner and operator of M/T Mackenzie Rose, in the above-entitled action. Carver acquired the Mackenzie Rose in 2020.

2. I am familiar with the discovery conducted in this case, including the First and Second Requests for Production of documents served upon Carver by the Norfolk and Portsmouth Belt Line railroad Company ("Belt Line or NPBL").

3. Per the Court's Order (Doc. 50) Carver was to produce documents responsive to numbers 4, 16, 17, 20, 21, 22, 33, 34 of the Belt Line's First Request for Production.

4. Per the Court's Order (Doc. 50) Carver was to produce documents responsive to numbers 1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14 of the Belt Line's Second Request for Production.

5. I have overseen and participated in the process of gathering, reviewing, and producing responsive documents and electronically stored information for Carver's response to the Belt Line's First and Second Requests for Production.

6. The search for responsive documents referenced in Paragraph 5, above, included a review of all relevant custodians and data sources in order to fully respond to the First and Second Requests for Production. In that regard, Carver obtained documents from three sources of data: (1) Carver's own records; (2) Documents from

its Vendor, TBS as to data in Helm CONNECT, and (3) performed searches of its company email accounts as follows:

A. From its own documents and based on limited searches in Helm CONNECT, Carver produced documents responsive to the Belt Line's First and Second Requests for Production, as documented therein. The documents produced from Carver's own files are Bates numbered with the prefix "CARVER 000001-001928".

B. Carver uses Helm CONNECT, an electronic record keeping platform to assist in its marine operations. See <https://www.helmoptions.com>. Helm CONNECT stores data pertaining to safety, maintenance, scheduling certifications, crew tasks, certified Safety Management Systems (SMS) compliance training. *Id.* TBS Safety provides assistance with the Helm CONNECT data system. See <https://tbssafety.com>. TBS assisted with culling data requested in the First and Second Requests for production that was stored in the Helm CONNECT database. From Helm CONNECT, TBS provided documents on Carver's behalf which are responsive to the Belt Line's First and Second Requests for Production, as documented therein. The documents produced by TBS from the Helm CONNECT database are Bates numbered with the prefix "CARVER TBS HELM CONNECT 000001-1618".

C. From Carver's company email accounts, Carver provided email from those that had company email accounts, which were responsive to request number 34 of the Belt Line's First Request for Production. See search terms and parameters performed by Carver's IT Department on the attached Addendum A. The documents produced by Carver from its company email accounts are Bates numbered with the prefix "CARVER ESI 000001-001867".

7. In light of the Court's Order (Doc 50.) and the searches conducted above, the following responses to the **First Request for Production** are complete and there are no additional documents: 20, 21, 22, 33.

8. In addition, the following responses to the **Second Request for Production** are complete and there are no additional documents: 1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14.

9. Carver is searching but has not yet located documents responsive to the following requests:

A. Rosepoint data from June 10-14, 2024 and June 16 – 20, 2024 responsive to Request nos. 4 and 17 of the Belt Line's First Request for Production.

B. Cell phone data from two (2) company-issued cell phones Responsive to Request Nos. 30 and 34 of the Belt Line's First Request for Production. Only Leonard Baldassare, now a former employee, had a company-owned cell phone provided by Carver and the Mackenzie Rose was also equipped with a company-issued cell phone.

C. Engine room logs, responsive to request no. 16 of the Belt Line's First Request for Production

10. To the best of my knowledge, information, and belief, formed after a reasonable inquiry, the production of documents identified by Carver (as referenced in paragraphs 7 and 8 above) in response to its First Supplemental Response to the Belt Line's First Requests for Production and Fifth Supplemental Response to the Belt Line's Second Requests for Production above, are complete and correct as of the date of this declaration.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on the 9th of June 2025, Chicago, Illinois.

Josef Malik

Josef Malik

Under penalties provided by law pursuant to 28 U.S.C. § 1746, I, Josef Malik, certify that the statements set forth in this Affidavit are true and correct, except as to matters therein stated to be on information and belief, and as to such matters I certify that I verily believe the same to be true.

ADDENDUM A

EMAIL ESI SEARCH

Custodians

- bmoore@carvercompanies.com
- lbaldassare@carvercompanies.com
- cmiller@carvercompanies.com (Capt Chris Miller – check this is correct Carver email)
- Crew members with a Carver Email Address
- tugmackenzie@carvercompanies.com

Date Range

- June 1, 2024 to September 15, 2024

Terms

- john.r.crow@uscg.mil
- meghan.e.palomba@uscg.mil
- luke.wisniewski@ntsb.gov
- cabel@wilsav.com
- collin@tbssafety.com
- pat@tbssafety.com
- “Mackenzie rose” AND bridge
- “mack rose” AND bridge
- Mackenzie AND rose AND bridge
- “m/v MACKENZIE ROSE” AND repair
- “Main Line Bridge”
- “Elizabeth River”
- “Norfolk & portsmith Belt Line Railroad Company”
- “Belt Line” AND bridge
- “MACKENZIE ROSE” and “deck log”
- “mackenzie rose” AND “engine log”
- Mackenzie AND ROSE AND “ENGINE LOG”
- Mackenzie AND ROSE AND “Deck Log”
- “2692”
- “CG-2692”
- Allide! AND bridge
- Allision AND bridge
- “Safety Management System”
- “Health and Safety Plan”
- “autopilot”
- Auto AND pilot
- “HARD OVER”
- “incident report”
- “incident statement”
- “Mackenzie rose” AND incident
- “crew” AND “statement”

- “TBS”
- “Tug and barge solutions”
- “coast guard” AND “investigation”
- “USCG” AND “investigation”
- Bridge AND damage
- Bridge AND PHOTO!
- “June 15, 2024” AND incident
- “6/15” AND incident
- “6/15/24” AND incident
- “6-15-24” AND incident
- “Mackenzie rose” AND “mackay”
- “Mackenzie rose” AND “GMT”
- “Mackenzie rose” AND “AYERS”
- “MACKAY”
- “gmt”
- “AYERS”
- “Morrissey” AND “terminate”
- “Morrissey” AND “suspend”